

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

COURTNEY SMITH JR.

No. 2:24-cv-1029 DJC AC PS

Plaintiff,

v.

NATHAN P. BAKER, et al.,

Defendants.

FINDINGS AND RECOMMENDATIONS

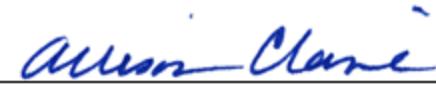
Plaintiff is proceeding in this action pro se. The action was accordingly referred to the undersigned for pretrial matters by E.D. Cal. R. (“Local Rule”) 302(c)(21). On January 28, 2025, defendants each filed a motion to strike the operative First Amended Complaint (ECF No. 22). ECF Nos. 23, 24. Plaintiff did not respond. Concerned that plaintiff had abandoned this case, the court issued an order to show cause within 14 days why this action should not be dismissed for failure to prosecute. ECF No. 27. Plaintiff was cautioned that failure respond could lead to a recommendation that the action be dismissed. Plaintiff again did not respond. Plaintiff has not responded to the court’s orders, nor taken any action to prosecute this case.

In recommending this action be dismissed for failure to prosecute, the court has considered “(1) the public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring

1 disposition of cases on their merits; and (5) the availability of less drastic alternatives.” Ferdik v.  
2 Bonzelet, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (citation omitted). Because this case cannot  
3 move forward without plaintiff’s participation, the court finds the factors weigh in favor of  
4 dismissal. Therefore, IT IS HEREBY RECOMMENDED that this action be dismissed, without  
5 prejudice, for lack of prosecution and for failure to comply with the court’s order. See Fed. R.  
6 Civ. P. 41(b); Local Rule 110.

7 These findings and recommendations are submitted to the United States District Judge  
8 assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-one  
9 (21) days after being served with these findings and recommendations, plaintiff may file written  
10 objections with the court. Such document should be captioned “Objections to Magistrate Judge’s  
11 Findings and Recommendations.” Local Rule 304(d). Plaintiff is advised that failure to file  
12 objections within the specified time may waive the right to appeal the District Court’s order.  
13 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

14 DATED: March 21, 2025

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17 ALLISON CLAIRE  
18 UNITED STATES MAGISTRATE JUDGE  
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